
By: **Delegates Hixson, Kopp, and Hurson**
Introduced and read first time: February 23, 2001
Assigned to: Rules and Executive Nominations
Re-referred to: Ways and Means, March 5, 2001

Committee Report: Favorable
House action: Adopted
Read second time: March 17, 2001

CHAPTER _____

1 AN ACT concerning

2 **Simplified Sales and Use Tax Administration Act**

3 FOR the purpose of enacting the Simplified Sales and Use Tax Administration Act;
4 defining certain terms; stating the findings of the General Assembly; providing
5 for certain representatives of the State to enter into certain multistate
6 discussions concerning a Streamlined Sales and Use Tax Agreement;
7 authorizing the Comptroller to enter into the Agreement with other states to
8 simplify and modernize sales and use tax administration; authorizing the
9 Comptroller to act jointly with other states that are members of the Agreement
10 to establish certain certification and performance standards; providing that
11 certain requirements must be in place before the State may enter into the
12 Agreement; providing that no provision of the Agreement invalidates or amends
13 any provision of State law; providing for certain provisions regarding certified
14 service providers and certified automated systems; requiring the Comptroller to
15 provide certain reports to the Governor and the General Assembly on the
16 progress of multistate discussions; altering the termination date of a certain Act;
17 providing for the application and termination of this Act; and generally relating
18 to the enactment of the Simplified Sales and Use Tax Administration Act.

19 BY adding to
20 Article - Tax - General
21 Section 11-4A-01 through 11-4A-11 to be under the new subtitle "Subtitle 4A.
22 Simplified Sales and Use Tax Administration Act"
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 2000 Supplement)

25 BY repealing and reenacting, with amendments,

1 Chapter 698 of the Acts of the General Assembly of 2000
2 Section 2

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Tax - General**

6 SUBTITLE 4A. SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT.

7 11-4A-01.

8 THIS SUBTITLE MAY BE CITED AS THE "SIMPLIFIED SALES AND USE TAX
9 ADMINISTRATION ACT".

10 11-4A-02.

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) "AGREEMENT" MEANS THE STREAMLINED SALES AND USE TAX
14 AGREEMENT AS AMENDED AND ADOPTED BY THE NATIONAL CONFERENCE OF STATE
15 LEGISLATURES ON JANUARY 27, 2001.

16 (C) "CERTIFIED AUTOMATED SYSTEM" MEANS SOFTWARE CERTIFIED
17 JOINTLY BY THE STATES THAT ARE SIGNATORIES TO THE AGREEMENT TO
18 CALCULATE THE TAX IMPOSED BY EACH JURISDICTION ON A TRANSACTION,
19 DETERMINE THE AMOUNT OF TAX TO REMIT TO THE APPROPRIATE STATE, AND
20 MAINTAIN A RECORD OF THE TRANSACTION.

21 (D) "CERTIFIED SERVICE PROVIDER" MEANS AN AGENT CERTIFIED JOINTLY
22 BY THE STATES THAT ARE SIGNATORIES TO THE AGREEMENT TO PERFORM ALL OF
23 THE SELLER'S SALES AND USE TAX FUNCTIONS.

24 (E) "PERSON" MEANS AN INDIVIDUAL, TRUST, ESTATE, FIDUCIARY,
25 PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP,
26 JOINT VENTURE, CORPORATION, OR ANY OTHER LEGAL ENTITY.

27 (F) "SALES AND USE TAX" MEANS THE TAX IMPOSED UNDER THIS TITLE.

28 (G) "SELLER" MEANS ANY PERSON MAKING SALES, LEASES, OR RENTALS OF
29 PERSONAL PROPERTY OR SERVICES.

30 (H) "STATE" MEANS ANY STATE OF THE UNITED STATES AND THE DISTRICT OF
31 COLUMBIA.

1 11-4A-03.

2 (A) THE GENERAL ASSEMBLY FINDS THAT A SIMPLIFIED SALES AND USE TAX
3 SYSTEM WILL REDUCE AND OVER TIME ELIMINATE THE BURDEN AND COST FOR ALL
4 VENDORS TO COLLECT THIS STATE'S SALES AND USE TAX.

5 (B) THE GENERAL ASSEMBLY FURTHER FINDS THAT THIS STATE SHOULD
6 PARTICIPATE IN MULTISTATE DISCUSSIONS TO REVIEW AND/OR AMEND THE TERMS
7 OF THE AGREEMENT TO SIMPLIFY AND MODERNIZE SALES AND USE TAX
8 ADMINISTRATION IN ORDER TO SUBSTANTIALLY REDUCE THE BURDEN OF TAX
9 COMPLIANCE FOR ALL SELLERS AND FOR ALL TYPES OF COMMERCE.

10 11-4A-04.

11 (A) FOR THE PURPOSES OF REVIEWING AND/OR AMENDING THE AGREEMENT
12 EMBODYING THE SIMPLIFICATION REQUIREMENTS AS CONTAINED IN § 11-4A-07 OF
13 THIS SUBTITLE, THE STATE SHALL ENTER INTO MULTISTATE DISCUSSIONS.

14 (B) FOR PURPOSES OF THE DISCUSSIONS, THE STATE SHALL BE
15 REPRESENTED BY NO MORE THAN FOUR REPRESENTATIVES, APPOINTED AS
16 FOLLOWS:

17 (1) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE
18 SPEAKER OF THE HOUSE;

19 (2) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE
20 PRESIDENT OF THE SENATE;

21 (3) ONE INDIVIDUAL APPOINTED BY THE GOVERNOR; AND

22 (4) THE COMPTROLLER OR THE DESIGNEE OF THE COMPTROLLER.

23 (C) EACH REPRESENTATIVE:

24 (1) MAY NOT RECEIVE COMPENSATION; BUT

25 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
26 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

27 11-4A-05.

28 (A) THE COMPTROLLER MAY ENTER INTO THE AGREEMENT WITH ONE OR
29 MORE STATES TO SIMPLIFY AND MODERNIZE SALES AND USE TAX ADMINISTRATION
30 IN ORDER TO SUBSTANTIALLY REDUCE THE BURDEN OF TAX COMPLIANCE FOR ALL
31 SELLERS AND FOR ALL TYPES OF COMMERCE.

32 (B) IN FURTHERANCE OF THE AGREEMENT, THE COMPTROLLER IS
33 AUTHORIZED TO ACT JOINTLY WITH OTHER STATES THAT ARE MEMBERS OF THE
34 AGREEMENT TO ESTABLISH STANDARDS FOR CERTIFICATION OF A CERTIFIED
35 SERVICE PROVIDER AND CERTIFIED AUTOMATED SYSTEM AND ESTABLISH
36 PERFORMANCE STANDARDS FOR MULTISTATE SELLERS.

1 (C) (1) THE COMPTROLLER IS FURTHER AUTHORIZED TO TAKE OTHER
2 ACTIONS REASONABLY REQUIRED TO IMPLEMENT THE PROVISIONS SET FORTH IN
3 THIS SUBTITLE.

4 (2) OTHER ACTIONS AUTHORIZED BY THIS SECTION INCLUDE, BUT ARE
5 NOT LIMITED TO, THE ADOPTION OF RULES AND REGULATIONS AND THE JOINT
6 PROCUREMENT, WITH OTHER MEMBER STATES, OF GOODS AND SERVICES IN
7 FURTHERANCE OF THE COOPERATIVE AGREEMENT.

8 (D) THE COMPTROLLER OR THE COMPTROLLER'S DESIGNEE IS AUTHORIZED
9 TO REPRESENT THIS STATE BEFORE THE OTHER STATES THAT ARE SIGNATORIES TO
10 THE AGREEMENT.

11 11-4A-06.

12 (A) NO PROVISION OF THE AGREEMENT AUTHORIZED BY THIS SUBTITLE IN
13 WHOLE OR IN PART INVALIDATES OR AMENDS ANY PROVISION OF THE LAW OF THIS
14 STATE.

15 (B) ADOPTION OF THE AGREEMENT DOES NOT AMEND OR MODIFY ANY LAW
16 OF THIS STATE.

17 (C) IMPLEMENTATION OF ANY CONDITION OF THE AGREEMENT IN THIS
18 STATE, WHETHER ADOPTED BEFORE, AT, OR AFTER MEMBERSHIP OF THIS STATE IN
19 THE AGREEMENT, MUST BE BY THE ACTION OF THIS STATE.

20 11-4A-07.

21 THE COMPTROLLER MAY NOT ENTER INTO THE AGREEMENT UNLESS THE
22 AGREEMENT REQUIRES EACH STATE TO ABIDE BY THE FOLLOWING REQUIREMENTS:

23 (1) THE AGREEMENT MUST SET RESTRICTIONS TO LIMIT OVER TIME
24 THE NUMBER OF STATE RATES;

25 (2) THE AGREEMENT MUST ESTABLISH UNIFORM STANDARDS FOR THE
26 FOLLOWING:

27 (I) THE SOURCING OF TRANSACTIONS TO TAXING JURISDICTIONS;

28 (II) THE ADMINISTRATION OF EXEMPT SALES; AND

29 (III) SALES AND USE TAX RETURNS AND REMITTANCES;

30 (3) THE AGREEMENT MUST PROVIDE A CENTRAL, ELECTRONIC
31 REGISTRATION SYSTEM THAT ALLOWS A SELLER TO REGISTER TO COLLECT AND
32 REMIT SALES AND USE TAXES FOR ALL SIGNATORY STATES;

33 (4) THE AGREEMENT MUST PROVIDE THAT REGISTRATION WITH THE
34 CENTRAL REGISTRATION SYSTEM AND THE COLLECTION OF SALES AND USE TAXES
35 IN THE SIGNATORY STATES WILL NOT BE USED AS A FACTOR IN DETERMINING
36 WHETHER THE SELLER HAS NEXUS WITH A STATE FOR ANY TAX;

1 (5) THE AGREEMENT MUST PROVIDE FOR REDUCTION OF THE BURDENS
2 OF COMPLYING WITH LOCAL SALES AND USE TAXES THROUGH THE FOLLOWING:

3 (I) RESTRICTING VARIANCES BETWEEN THE STATE AND LOCAL
4 TAX BASES;

5 (II) REQUIRING STATES TO ADMINISTER ANY SALES AND USE
6 TAXES LEVIED BY LOCAL JURISDICTIONS WITHIN THE STATE SO THAT SELLERS
7 COLLECTING AND REMITTING THESE TAXES WILL NOT HAVE TO REGISTER OR FILE
8 RETURNS WITH, REMIT FUNDS TO, OR BE SUBJECT TO INDEPENDENT AUDITS FROM
9 LOCAL TAXING JURISDICTIONS;

10 (III) RESTRICTING THE FREQUENCY OF CHANGES IN THE LOCAL
11 SALES AND USE TAX RATES AND SETTING EFFECTIVE DATES FOR THE APPLICATION
12 OF LOCAL JURISDICTIONAL BOUNDARY CHANGES TO LOCAL SALES AND USE TAXES;
13 AND

14 (IV) PROVIDING NOTICE OF CHANGES IN LOCAL SALES AND USE
15 TAX RATES AND OF CHANGES IN THE BOUNDARIES OF LOCAL TAXING
16 JURISDICTIONS;

17 (6) THE AGREEMENT MUST OUTLINE ANY MONETARY ALLOWANCES
18 THAT ARE TO BE PROVIDED BY THE STATES TO SELLERS OR CERTIFIED SERVICE
19 PROVIDERS;

20 (7) THE AGREEMENT MUST ALLOW FOR A JOINT PUBLIC AND PRIVATE
21 SECTOR STUDY OF THE COMPLIANCE COST ON SELLERS AND CERTIFIED SERVICE
22 PROVIDERS TO COLLECT SALES AND USE TAXES FOR STATE AND LOCAL
23 GOVERNMENTS UNDER VARIOUS LEVELS OF COMPLEXITY TO BE COMPLETED BY
24 JULY 1, 2002;

25 (8) THE AGREEMENT MUST REQUIRE EACH STATE TO CERTIFY
26 COMPLIANCE WITH THE TERMS OF THE AGREEMENT PRIOR TO JOINING AND TO
27 MAINTAIN COMPLIANCE, UNDER THE LAWS OF THE MEMBER STATE, WITH ALL
28 PROVISIONS OF THE AGREEMENT WHILE A MEMBER;

29 (9) THE AGREEMENT MUST REQUIRE EACH STATE TO ADOPT A UNIFORM
30 POLICY FOR CERTIFIED SERVICE PROVIDERS THAT PROTECTS THE PRIVACY OF
31 CONSUMERS AND MAINTAINS THE CONFIDENTIALITY OF TAX INFORMATION; AND

32 (10) THE AGREEMENT MUST PROVIDE FOR THE APPOINTMENT OF AN
33 ADVISORY COUNCIL OF PRIVATE SECTOR REPRESENTATIVES AND AN ADVISORY
34 COUNCIL OF NONMEMBER STATE REPRESENTATIVES TO CONSULT WITH IN THE
35 ADMINISTRATION OF THE AGREEMENT.

36 11-4A-08.

37 (A) THE AGREEMENT AUTHORIZED BY THIS SUBTITLE IS AN ACCORD AMONG
38 INDIVIDUAL COOPERATING SOVEREIGNS IN FURTHERANCE OF THEIR
39 GOVERNMENTAL FUNCTIONS.

1 (B) THE AGREEMENT PROVIDES A MECHANISM AMONG THE MEMBER STATES
2 TO ESTABLISH AND MAINTAIN A COOPERATIVE, SIMPLIFIED SYSTEM FOR THE
3 APPLICATION AND ADMINISTRATION OF SALES AND USE TAXES UNDER THE DULY
4 ADOPTED LAW OF EACH MEMBER STATE.

5 11-4A-09.

6 (A) (1) THE AGREEMENT AUTHORIZED BY THIS SUBTITLE BINDS AND
7 INURES ONLY TO THE BENEFIT OF THIS STATE AND THE OTHER MEMBER STATES.

8 (2) NO PERSON, OTHER THAN A MEMBER STATE, IS AN INTENDED
9 BENEFICIARY OF THE AGREEMENT.

10 (3) ANY BENEFIT TO A PERSON OTHER THAN A STATE IS ESTABLISHED
11 BY THE LAW OF THIS STATE AND THE OTHER MEMBER STATES AND NOT BY THE
12 TERMS OF THE AGREEMENT.

13 (B) (1) NO PERSON SHALL HAVE ANY CAUSE OF ACTION OR DEFENSE
14 UNDER THE AGREEMENT OR BY VIRTUE OF THE STATE'S APPROVAL OF THE
15 AGREEMENT.

16 (2) NO PERSON MAY CHALLENGE, IN ANY ACTION BROUGHT UNDER ANY
17 PROVISION OF LAW, ANY ACTION OR INACTION BY ANY DEPARTMENT, AGENCY, OR
18 OTHER INSTRUMENTALITY OF THIS STATE, OR ANY POLITICAL SUBDIVISION OF THIS
19 STATE, ON THE GROUND THAT THE ACTION OR INACTION IS INCONSISTENT WITH
20 THE AGREEMENT.

21 (C) NO LAW OF THIS STATE, OR THE APPLICATION THEREOF, MAY BE
22 DECLARED INVALID AS TO ANY PERSON OR CIRCUMSTANCE ON THE GROUND THAT
23 THE PROVISION OR APPLICATION IS INCONSISTENT WITH THE AGREEMENT.

24 11-4A-10.

25 (A) (1) A CERTIFIED SERVICE PROVIDER IS THE AGENT OF A SELLER, WITH
26 WHOM THE CERTIFIED SERVICE PROVIDER HAS CONTRACTED, FOR THE COLLECTION
27 AND REMITTANCE OF SALES AND USE TAXES.

28 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE CERTIFIED
29 SERVICE PROVIDER IS LIABLE FOR SALES AND USE TAX DUE EACH MEMBER STATE
30 ON ALL SALES TRANSACTIONS IT PROCESSES FOR THE SELLER.

31 (3) A SELLER THAT CONTRACTS WITH A CERTIFIED SERVICE PROVIDER
32 IS NOT LIABLE TO THE STATE FOR SALES OR USE TAX DUE ON TRANSACTIONS
33 PROCESSED BY THE CERTIFIED SERVICE PROVIDER UNLESS THE SELLER
34 MISREPRESENTED THE TYPE OF ITEMS IT SELLS OR COMMITTED FRAUD.

35 (4) IN THE ABSENCE OF PROBABLE CAUSE TO BELIEVE THAT THE
36 SELLER HAS COMMITTED FRAUD OR MADE A MATERIAL MISREPRESENTATION, THE
37 SELLER IS NOT SUBJECT TO AUDIT ON THE TRANSACTIONS PROCESSED BY THE
38 CERTIFIED SERVICE PROVIDER.

1 (5) A SELLER IS SUBJECT TO AUDIT FOR TRANSACTIONS NOT
2 PROCESSED BY THE CERTIFIED SERVICE PROVIDER.

3 (6) THE MEMBER STATES ACTING JOINTLY MAY PERFORM A SYSTEM
4 CHECK OF THE SELLER AND REVIEW THE SELLER'S PROCEDURES TO DETERMINE IF
5 THE CERTIFIED SERVICE PROVIDER'S SYSTEM IS FUNCTIONING PROPERLY AND THE
6 EXTENT TO WHICH THE SELLER'S TRANSACTIONS ARE BEING PROCESSED BY THE
7 CERTIFIED SERVICE PROVIDER.

8 (B) (1) A PERSON THAT PROVIDES A CERTIFIED AUTOMATED SYSTEM IS
9 RESPONSIBLE FOR THE PROPER FUNCTIONING OF THAT SYSTEM AND IS LIABLE TO
10 THE STATE FOR UNDERPAYMENTS OF TAX ATTRIBUTABLE TO ERRORS IN THE
11 FUNCTIONING OF THE CERTIFIED AUTOMATED SYSTEM.

12 (2) A SELLER THAT USES A CERTIFIED AUTOMATED SYSTEM REMAINS
13 RESPONSIBLE AND IS LIABLE TO THE STATE FOR REPORTING AND REMITTING TAX.

14 (C) A SELLER THAT HAS A PROPRIETARY SYSTEM FOR DETERMINING THE
15 AMOUNT OF TAX DUE ON TRANSACTIONS AND HAS SIGNED AN AGREEMENT
16 ESTABLISHING A PERFORMANCE STANDARD FOR THAT SYSTEM IS LIABLE FOR THE
17 FAILURE OF THE SYSTEM TO MEET THE PERFORMANCE STANDARD.

18 11-4A-11.

19 THE COMPTROLLER SHALL PROVIDE SEMIANNUAL REPORTS TO THE
20 GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
21 LEGISLATIVE POLICY COMMITTEE AND THE FISCAL COMMITTEES OF THE GENERAL
22 ASSEMBLY ON THE PROGRESS OF THE MULTISTATE DISCUSSIONS.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
24 read as follows:

25 **Chapter 698 of the Acts of 2000**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2000. It shall remain effective for a period of [2 years] 1 YEAR and, at the end
28 of June 30, [2002] 2001, with no further action required by the General Assembly, this
29 Act shall be abrogated and of no further force and effect.

30 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
31 remain effective for a period of 2 years and, at the end of June 30, 2003, with no
32 further action required by the General Assembly, Section 1 of this Act shall be
33 abrogated and of no further force and effect.

34 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 July 1, 2001.

